

The Senate Natural Resources and the Environment Committee offered the following substitute to SB 389:

A BILL TO BE ENTITLED
AN ACT

To amend Article 1 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to the registration, operation, and sale of watercraft generally, so as to revise provisions relating to operation of personal watercraft; to revise provisions relating to operation of watercraft; to revise certain provisions relating to boating safety and educational programs; to revise certain provisions relating to penalties for criminal violations; to enact the "Boating Safety Education Act"; to provide a short title; to provide definitions; to provide for requirements and applicability; to provide for enforcement and penalties; to provide for lease and rental agreements; to provide for issuance of rules and regulations by the Department of Natural Resources; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to the registration, operation, and sale of watercraft generally, is amended by revising Code Section 52-7-8.2, relating to restrictions on operating personal watercraft, as follows:

"52-7-8.2.

(a) As used in this Code section, the term:

(1) 'Accompanied by' means in the physical presence within the vessel of a person who is not under the influence of alcohol or drugs to a degree which would constitute a violation of Code Section 52-7-12 were such person operating the vessel.

(2) 'Class A vessel' means a boat less than 16 feet in length.

(3) 'Personal watercraft' means a Class A vessel which:

(A) Has an outboard motor or which has an inboard motor which uses an internal combustion engine powering a water jet pump as its primary source of motive propulsion;

(B) Is designed with the concept that the operator and passenger ride on the outside surfaces of the vessel as opposed to riding inside the vessel; and

(C) Has the probability that the operator and passenger may, in the normal course of use, fall overboard.

Such term includes, without limitation, any vessel where the operator and passenger ride on the outside surfaces of the vessel, even if the primary source of motive propulsion is a propeller, and any vessels commonly known as a 'jet ski.'

(4) 'Under the direct supervision' means within sight of and within 400 yards of a person who is not under the influence of alcohol or drugs to a degree which would constitute a violation of Code Section 52-7-12 were such person operating the vessel and who is aware of his or her supervisory responsibility.

(b) No person shall operate or give permission to operate personal watercraft on the waters of this state unless each person aboard such personal watercraft is wearing a United States Coast Guard approved personal flotation device, Type I, Type II, Type III, or Type V. Each such personal flotation device must be properly fastened, in good and serviceable condition, and the proper size for the person wearing it.

~~(c) No person shall rent, lease, or let for hire a personal watercraft to any person under the age of 16 years.~~

~~(d)~~ No person shall operate a personal watercraft on the waters of this state after sunset or before sunrise unless such person is engaged in the enforcement of the laws of this state or this nation.

~~(e)~~(d) No person shall operate a personal watercraft on the waters of this state unless such personal watercraft is equipped with a self-circling device or a lanyard-type engine cutoff switch.

~~(f)~~(e) No person shall operate on the waters of this state a personal watercraft which has been equipped by the manufacturer with a lanyard-type engine cutoff switch unless the lanyard and the switch are operational and unless the lanyard is attached to the operator, the operator's clothing, or a personal flotation device worn by the operator.

~~(g)~~(f) No person shall operate on the waters of this state a personal watercraft which has been equipped by the manufacturer with a self-circling device if the self-circling device or the engine throttle has been altered in any way that would prohibit the self-circling device from operating in its intended manner.

~~(h)~~(g) It shall be unlawful for any person who owns a personal watercraft or who has charge over or control of a personal watercraft to authorize or knowingly to permit such personal watercraft to be operated in violation of this Code section or of Code Section 52-7-8.3.

(i)(h) The provisions of this Code section shall not apply to vessels engaged in any activity authorized under Code Section 52-7-19.

(j)(i) No person shall operate a personal watercraft on the waters of this state at a speed greater than idle speed within 100 feet of any moored or anchored vessel, any vessel adrift, or any wharf, dock, pier, piling, bridge structure or abutment, person in the water, or shoreline adjacent to a full-time or part-time residence, public park, public beach, public swimming area, marina, restaurant, or other public use area.

(k)(i) It shall be unlawful for any person to operate a personal watercraft on the waters of this state while towing a person or persons on water skis, aquaplanes, surfboards, tubes, or any similar device; provided, however, that the provisions of this subsection shall not apply to any personal watercraft designed by the manufacturer to carry three or more persons, provided that such personal watercraft has on board a competent observer in addition to the operator at any time that a person is being towed.

~~(l) On and after June 1, 1995, no person under the age of 16 years shall operate a personal watercraft on the waters of this state, provided, however, that a person age 12 through 15 years may operate a personal watercraft if he or she is accompanied by an adult age 18 or over or he or she has successfully completed a personal watercraft safety program approved by the department or is under direct supervision by an adult age 18 or over. The department may, but shall not be required to, conduct or provide personal watercraft safety courses to the public.~~

~~(m) On and after July 1, 1995, it shall be unlawful for any person to cause or knowingly permit such person's child or ward who is less than 12 years of age or the child or ward of another over whom such person has a permanent or temporary responsibility of supervision if such child or ward is less than 12 years of age to operate a personal watercraft.~~

~~(n) It shall be unlawful for any person to cause or knowingly permit such person's child or ward who is age 12 through 15 years or the child or ward of another over whom such person has a permanent or temporary responsibility of supervision if such child or ward is age 12 through 15 years to operate a personal watercraft other than in compliance with the provisions of subsection (l) of this Code section."~~

SECTION 2.

Said article is further amended by revising Code Section 52-7-8.3, relating to operation of watercraft, as follows:

"52-7-8.3.

(a) ~~A~~ No person ~~age 16 or over may~~ 16 years of age or older shall operate any vessel or personal watercraft on any of the waters of this state, ~~and unless~~ such person shall have in such vessel proper identification of himself or herself.

1 ~~(b) A person age 14 or 15 may operate:~~

2 ~~(1) A personal watercraft or nonmotorized Class A vessel on any of the waters of this~~
3 ~~state in compliance with the provisions of this article, and~~

4 ~~(2) Any other vessel if such person:~~

5 ~~(A) Is accompanied by an adult age 18 or over who is authorized to operate such vessel~~
6 ~~under the provisions of subsection (a) of this Code section;~~

7 ~~(B) Has completed a safe boating course approved by the department; or~~

8 ~~(C) Is under direct supervision by an adult age 18 or over.~~

9 ~~(c) A person age 12 or 13 may operate any Class A vessel utilizing mechanical means of~~
10 ~~propulsion not exceeding 30 horsepower, under the conditions set forth in~~
11 ~~subparagraphs (b)(2)(A) through (b)(2)(C) of this Code section. Such person may operate~~
12 ~~a personal watercraft in compliance with Code Section 52-7-8.2, and such person may~~
13 ~~operate nonmotorized Class A vessels without restriction.~~

14 ~~(d)(b)~~ No person under the age of 12 years of age or younger shall operate any Class 1, 2,
15 or 3 vessel or any personal watercraft on any of the waters of this state, and no such person
16 shall operate any Class A vessel utilizing mechanical means of propulsion exceeding 30
17 horsepower. Such person may operate a Class A vessel, other than a personal watercraft,
18 utilizing mechanical means of propulsion not exceeding 30 horsepower only where such
19 person is accompanied by an adult ~~age 18~~ years of age or ~~over~~ older who is authorized to
20 operate such vessel ~~under the provisions of subsection (a) of this Code section.~~

21 ~~(e)(c)~~ As used in this Code section, the term:

22 (1) 'Accompanied by' means in the physical presence within the vessel of a person who
23 is not under the influence of alcohol or drugs to a degree which would constitute a
24 violation of Code Section 52-7-12 were such person operating the vessel.

25 (2) 'Proper identification' shall have the same meaning as in subsection (d) of Code
26 Section 3-3-23, relating to furnishing of alcoholic beverages.

27 ~~(3) 'Under the direct supervision' means within sight of and within 400 yards of a person~~
28 ~~who is not under the influence of alcohol or drugs to a degree which would constitute a~~
29 ~~violation of Code Section 52-7-12 were such person operating the vessel and who is~~
30 ~~aware of his or her supervisory responsibility.~~

31 ~~(f)(d)~~ No person having ownership or control of a vessel shall permit another person to
32 operate such vessel in violation of this Code section."

33 SECTION 3.

34 Said article is further amended by designating Code Sections 52-7-1 through 52-7-3 as Part 1
35 of said article, designating Code Sections 52-7-4 through 52-7-21 as Part 2 of said article,
36 and designating Code Sections 52-7-23 through 52-7-26 as Part 4 of said article.

SECTION 4.

Said article is further amended by revising Code Section 52-7-22, relating to boating safety and educational programs, and adding new Code Sections 52-7-21.1, 52-7-21.2, 52-7-22.1, 52-7-22.2, and 52-7-22.3, all designated as new Part 3 of said article, as follows:

"Part 3**52-7-21.1.**

This part shall be known and may be cited as the 'Boating Safety Education Act.'

52-7-21.2.

As used in this part, the term:

(1) 'Certificate' means a boating education safety certificate issued as evidence of successful completion of a course in safe boating.

(2) 'NASBLA' means the National Association of State Boating Law Administrators.

(3) 'Proper identification' shall have the same meaning as in subsection (d) of Code Section 3-3-23, relating to furnishing of alcoholic beverages.

52-7-22.

The department is ~~shall be~~ authorized to inaugurate a comprehensive boating safety and boating education program and to seek the cooperation of boatmen, the federal government, and other states. The department may accept moneys made available under federal safety programs and ~~may~~ shall issue safety certificates to persons who successfully complete approved courses in boating safety education for purposes of paragraph (1) of Code Section 52-7-22.1.

52-7-22.1.

No person born on or after January 1, 1990, shall operate a power boat on any waters of this state unless he or she:

(1) Has successfully completed a course and examination in safe boating that is approved by NASBLA and adopted by rules or regulations of the Board of Natural Resources;

(2) Possesses a valid license to operate a vessel issued for maritime personnel by the United States Coast Guard pursuant to 46 C.F.R. Part 10 or a marine certificate issued by the Canadian government;

(3) Purchased the power boat, new or used, with a transfer of ownership within the past 60 days;

1 (4) Possesses a rental agreement or lease agreement provided pursuant to Code
2 Section 52-7-22.3 which lists the person as an authorized operator of the power boat;

3 (5) Is not a resident of this state, is temporarily using the waters of this state for a period
4 not to exceed 60 days, and meets any applicable requirements of his or her state of
5 residency or possesses a Canadian Pleasure Craft Operator's Card; or

6 (6) Is a person who operates a vessel under supervised training, as authorized by the
7 state.

8 52-7-22.2.

9 (a) Any person born on or after January 1, 1990, operating a power boat on any waters of
10 this state and stopped by a law enforcement officer in the enforcement of this part or the
11 regulations adopted pursuant thereto shall present to the officer evidence that the
12 requirements of Code Section 52-7-22.1 have been met. Failure of such person to present
13 such evidence shall constitute prima facie evidence of a violation of Code
14 Section 52-7-22.1.

15 (b) Any person born on or after January 1, 1990, who fails to present the certificate or
16 other document as evidence that the requirements of Code Section 52-7-22.1 have been met
17 shall be guilty of a misdemeanor unless such person presents the required documents in a
18 court having jurisdiction over the offense that prove such person was operating such power
19 boat in compliance with Code Section 52-7-22.1 on the date of the violation.

20 (c) In any proceeding for a violation of this part, the court having jurisdiction over the
21 offense may suspend all or part of the fine to be imposed on the defendant if the defendant
22 completes the safe boating education course specified in paragraph (1) of Code
23 Section 52-7-22.1 within the time limits imposed by the court.

24 52-7-22.3.

25 (a) A person or his or her agent or employee engaged in the business of renting or leasing
26 power boats for a period not exceeding 30 days shall not rent or lease a power boat to any
27 person for operation on the waters of this state unless such person:

28 (1) Meets the provisions of Code Section 52-7-22.1; and

29 (2) Is 16 years of age or older.

30 (b) A person or his or her agent or employee engaged in the business of renting or leasing
31 power boats shall list on each rental or lease agreement for a power boat the name and age
32 of each person who is authorized to operate such power boat. The person to whom the
33 power boat is rented or leased shall ensure that only those persons who are listed as
34 authorized operators are allowed to operate such power boat.

1 (c) A person or his or her agent or employee engaged in the business of renting or leasing
2 power boats shall provide to each authorized operator of a power boat a summary of the
3 statutes and regulations governing the operation of a power boat and instructions regarding
4 the safe operation of such power boat. Each person who is listed as an authorized operator
5 of the power boat shall review the summary of the statutes, regulations, and instructions
6 before the power boat departs from the rental or leasing office.

7 (d) A person or his or her agent or employee engaged in the business of renting or leasing
8 power boats may utilize a rental safety checklist which highlights the most important
9 boating safety rules and require the person to whom the power boat is rented to initial each
10 section to prove that he or she has read it and is aware of the safety issues."

11 **SECTION 5.**

12 Said article is further amended by revising Code Section 52-7-26, relating to penalties for
13 criminal violations relative to registration, operation, and sale of watercraft, as follows:

14 "52-7-26.

15 Except as otherwise provided in this article, any person who violates this article or any rule
16 or regulation promulgated hereunder shall be guilty of a misdemeanor. The court having
17 jurisdiction of the offense shall, as a condition of any period of probation imposed, require
18 such person to successfully complete the safe boating education course specified in
19 paragraph (1) of Code Section 52-7-22.1."

20 **SECTION 6.**

21 (a) This section and Section 7 of this Act shall become effective on July 1, 2008.

22 (b) Sections 1 through 5 of this Act shall become effective on July 1, 2009; provided,
23 however, that as soon as practicable after July 1, 2008, the Board of Natural Resources shall
24 adopt necessary rules and regulations to carry out the provisions of Section 4 of this Act,
25 including provisions for issuance of certificates, duplicate certificates, record keeping,
26 cooperative agreements, name and address changes, and the establishment of fees for boating
27 safety courses and certificates. The Department of Natural Resources shall have its testing
28 and certifying procedures in place and functioning before January 1, 2009, in order to allow
29 boaters to comply with the provisions of Section 4 of this Act before July 1, 2009.

30 **SECTION 7.**

31 All laws and parts of laws in conflict with this Act are repealed.